

## **Vehicle Theft and Vandalism off Post**

Department of the Army Regulation 27-20, *Claims*, paragraph 11-5h (1) (f), dated 8 February 2008, permits payment for off post theft and vandalism of privately owned vehicles in certain very limited situations. Such theft and vandalism is compensable under the Personnel Claims Act 31 U.S.C. section 3721, only if the claimant submits clear and convincing evidence that the damage was incident to service. See Department of the Army Pamphlet 27-162, *Claims, Procedures* (21 March 2008), Paragraph 11-5h(6) .However, there is no requirement that the claimant be on temporary duty or using his vehicle to perform a military mission at the time the theft or vandalism occurred. In addition, the damage is not compensable if the theft or vandalism occurred at non-government quarters in a state or the District of Columbia. This limitation is specifically prohibits by the Personnel Claims Act. See Department of the Army Pamphlet 27-162, *Claims, Procedures* (21 March 2008), Paragraph 11-5h (6).

For example, if a claimant is dining at an off post restaurant, and his vehicle, bearing a military sticker, is spray painted with the phrase "soldiers kill babies," there is sufficient evidence of a direct connection between the claimant's service and the damage, and the claim could be paid. On the other hand, if the same claimant is dining at an off-post restaurant and his vehicle is intentionally scratched, the mere fact that there is a military sticker on the vehicle is not sufficient evidence of service connection and the claim should not be paid. Alternatively, if a group of vehicles bearing military stickers are parked in a lot with other vehicles, and the vehicles with stickers are the only ones scratched, this may be sufficient evidence of service connection to pay the claims. Mr. Winston R. Worrell, Office of the Staff Judge Advocate, Aberdeen Proving Ground, Maryland.